

**FINANCIAL OVERSIGHT AND MANAGEMENT BOARD
FOR PUERTO RICO**



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BY ELECTRONIC MAIL

April 28, 2020

Mr. Omar J. Marrero Díaz, Esq.
Executive Director
Puerto Rico Fiscal Agency and
Financial Advisory Authority
Governor's Representative and Ex-Officio Member

Dear Mr. Marrero Díaz:

As previously communicated, we believe that transparency and fiscal responsibility are paramount for the appropriate management of public funds, especially as the people of Puerto Rico continue to share the burden of managing the fallout from the COVID-19 pandemic.

To that end, we have sent you multiple letters, dated April 6, 2020, April 9, 2020, April 12, 2020, and April 15, 2020 (collectively, the "**Letters**"), in an effort to obtain documents and other information regarding the negotiation and procurement of contracts for COVID-19 rapid test kits, as well as other transactions performed during the state of emergency declared on account of the COVID-19 pandemic. This information is necessary for us to understand the procurement process employed by the Commonwealth to enter into these contracts, develop processes and recommendations for such processes that are consistent with the principles of fiscal governance, accountability and internal controls, and to alleviate concerns of fraud, waste and abuse, particularly during times of crisis.

We hereby acknowledge receipt of your letter dated April 20, 2020, in response to our Letters. As of April 24, 2020, we have received 46 emails from the Puerto Rico Fiscal Agency & Financial Advisory Authority ("**AAFAF**") with certain attachments which purport to disclose the documents requested in our Letters.

We have carefully reviewed the documents submitted by AAFAF and have determined the information disclosed falls short of the requests in our letters. For example, AAFAF has failed to produce any communications prior to March 26, 2020 reflecting the procurement and negotiation

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process which led to the execution of Contract No. 2020-COVI-19-00 executed between the Puerto Rico Emergency Management Agency (PREMA) and Apex General Contractors LLC (the “**Apex Contract**”).

In addition, the limited information produced by AAFAF included files with links without the necessary credentials to access them and other incomplete documents, such as incomplete screenshots of e-mails and e-mails without attachments. Furthermore, you have failed to produce copies of any documentation regarding purchases from 313 LLC.

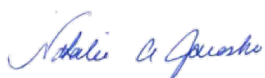
The information we are requesting concerns a contract that was negotiated and executed a little over a month ago, so the information should be readily available to the Government. Moreover, we understand that multiple Government agencies have compiled significant volumes of information concerning the procurement and execution of the Apex and 313 LLC Contracts and produced the same to the House of Representatives, which makes the Government’s refusal to comply with our requests even more worrisome.

Compliance with the requests in our Letters should not be difficult. Therefore, while we are prepared to exercise our powers under, among others, Sections 104(c) and 104(f)(2) of PROMESA, we are extending the time for AAFAF and the Government to produce the documents and information requested by the Oversight Board until 4 pm AST on May 2, 2020. To avoid any confusion, the Oversight Board requests the following:

1. Copies of all written communications, including all electronic communications, such as texts, emails and similar means of communication, in connection with the procurement and negotiations that led to the execution of the purchase orders and the Apex Contract prior to March 26, 2020;
2. Copies of the items listed in Exhibit A comprising the missing and otherwise incomplete portions of emails and other written communications previously submitted regarding the Apex Contract; and
3. Documentation and written communications, including all electronic communications, such as texts, emails, and similar means of communication, regarding purchases from 313 LLC.

We look forward to a complete and transparent response to our request.

Sincerely,



Natalie A. Jaresko

EXHIBIT A

Information to be supplemented in connection with the Apex Contract

1. Copies of all written communications and/or documents (*i.e.*, texts, emails and similar means of communication, letters, memorandums, and proposals) prior to the execution of the Contract in connection with the negotiations, award and procurement procedure for the Contract.
2. Copies of the attachments included in the following emails sent to AAFAF by the Department of Health of Puerto Rico and forwarded to the Oversight Board by Carlos Saavedra from AAFAF on April 20, 2020 at 8:13 PM:
 - a. Email – No Subject (March 26, 2020, 12:04pm) (Email 4 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH)
 - o *Sender:* Not identified.
 - o *Forward:* Yma González (Alister McKinley)

The attachment identified is:

- (i) “ASG-565 Contrato” (Word document)
- b. Email – COVID-19 Rapid Test (March 31, 2020, 3:54pm) (Email 26 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH)
 - o *Sender:* Not identified.
 - o *Forward:* Yma González (Alister McKinley) and Bradley Mayo (Promedical)

The attachments identified are:

- (i) “CE Declaration PM” (PDF document);
 - (ii) “IFU-Promedical COVID-19” (PDF document); and
 - (iii) “41Fi 41FO Notice of incl...”(PDF document)
- c. Email – COVID Test (March 31, 2020, 4:20pm) (Email 28 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH)

Exhibit A

Letter dated April 28, 2020 addressed to Mr. Omar J. Marrero Díaz, Esq.
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- o *Sender:* Juan Maldonado
- o *Forward:* Yma González (Alister McKinley)

The attachments identified are:

- (i) “Artron Dossier” (PDF document); and
- (ii) “Brochure Artron” (PDF document)

3. The following emails, sent to AAFAF by the Department of Health of Puerto Rico and forwarded to the Oversight Board by Carlos Saavedra from AAFAF on April 20, 2020 at 8:13 PM, appear to belong to a chain of emails. Please provide the complete chain:

- a. Email - Covid-19 Rapid Test (March 26, 2020, 12:22am) (Email 1 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH)
 - o *Sender:* Juan Maldonado (Apex representative)
 - o *Forward:* Yma González (Alister McKinley)
- b. Email - No subject (March 26, 2020, 12:50pm) (Email 3 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH)
 - o *Sender:* Juan Maldonado (Apex representative)
 - *Forward:* Yma González (Alister McKinley)
- c. Email - No subject (March 26, 2020, 2:49pm) (Email 5 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH)
 - o *Sender:* Juan Maldonado (Apex representative)
 - o *Forward:* Yma González (Alister McKinley)
- d. Email - No subject (March 26, 2020, 3:51pm) (Email 6 Apex.jpg)
 - o *Recipient:* Yma González (Alister McKinley)
 - o *Sender:* Adil Rosa Rivera (DOH)

Exhibit A

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- e. Email - Documentos Apex (March 26, 2020, 4:02pm) (Email 7 Apex.jpg)
 - o *Recipient:* Yara M. Torres Marín (PREMA), Mariel Rivera Rivera (DOH)
 - o *Sender:* Mariel Rivera Rivera (DOH) and Juan Maldonado (Apex representative)
 - o *Forward:* Mariel Rivera Rivera (DOH) and Yma González (Alister McKinley)

- f. Email - Documentos Apex (March 26, 2020, 4:02pm) (Email 8 Apex.jpg)
 - o *Recipient:* Yara M. Torres Marín (PREMA), Mariel Rivera Rivera (DOH)
 - o *Sender:* Mariel Rivera Rivera (DOH) and Juan Maldonado (Apex representative)
 - o *Forward:* Mariel Rivera Rivera (DOH) and Yma González (Alister McKinley)

Note: This email is the same included in item (e.) but includes an additional portion of the email chain.

- g. Email - Factura Rapid Tests COVID-19 (March 26, 2020, 4:19pm) (Email 9 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH) and an email identified as inegron@prema.gov (PREMA)
 - o *Sender:* Juan Maldonado (Apex representative)
 - o *Forward:* Yma González (Alister McKinley)

- h. Email - No subject (March 26, 2020, 3:40pm) (Email 10 Apex.jpg)
 - o *Recipient:* Yma González (Alister McKinley)
 - o *Sender:* Adil Rosa Rivera (DOH)

- i. Email - No subject (March 26, 2020, 5:13pm) (Email 11 Apex.jpg)
 - o *Recipient:* Adil Rosa Rivera (DOH) and Mariel Rivera Rivera (DOH)

Exhibit A

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o *Sender:* Juan Maldonado (Apex representative)

o *Forward:* Yma González (Alister McKinley)

j. Email - No subject (March 26, 2020, 5:15pm) (Email 12 Apex.jpg)

o *Recipient:* Yma González (Alister McKinley)

o *Sender:* Mariel Rivera Rivera (DOH)

k. Email - No subject (March 26, 2020, 5:17pm) (Email 13 Apex.jpg)

o *Recipient:* Yara M. Torres Marín (PREMA)

o *Sender:* Mariel Rivera Rivera (DOH)

l. Email - No subject (March 26, 2020, 5:45pm) (Email 15 Apex.jpg)

o *Recipient:* Vanessa Figueroa Colón (PREMA)
and Inegrón@prema.pr.gov (PREMA)

o *Sender:* Mariel Rivera Rivera (DOH)

m. Email - No subject (March 26, 2020, 7:22pm) (Email 18 Apex.jpg)

o *Recipient:* Vanessa Figueroa Colón (PREMA) Mariel Rivera Rivera (DOH)

o *Sender:* Yma González (Alister McKinley)

n. Email - No subject (March 26, 2020, 7:24pm) (Email 19 Apex.jpg)

o *Recipient:* Angela Soto Toro (DOT) and Mariel Rivera Rivera (DOH)

o *Sender:* Vanessa Figueroa Colón (PREMA)

o. Email - MOD SC 733 REVISADO INFORMACION SUPLIDOR
APEX (March 26, 2020, 7:45pm) (Email 21 Apex.jpg)

o *Recipient:* Angela Soto Toro (DOT) and Mariel Rivera Rivera (DOH)

o *Sender:* Vanessa Figueroa Colón (PREMA)

Exhibit A

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- p. Email - COVID KIT MADE IN USA (March 27, 2020, 9:00am) (Email 24 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH)
 - o *Sender:* Juan Maldonado (Apex representative)
 - o *Forward:* Yma González (Alister-McKinley)

- q. Email - FDA Reference (March 30, 2020, 11:41am) (Email 25 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH)
 - o *Sender:* Juan Maldonado (Apex representative)
 - o *Forward:* Yma González (Alister-McKinley)

- r. Email - COVID-19 RAPID TEST (March 31, 2020, 3:54pm) (Email 26 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH)
 - o *Sender:* Juan Maldonado (Apex representative)
 - o *Forward:* Bradley Mayo (Promedical) and Yma González (Alister McKinley)

- s. Email - OPUSCULO PROMEDICAL (March 31, 2020, 3:57pm) (Email 27 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH)
 - o *Sender:* Not identified.
 - o *Forward:* Yma González (Alister McKinley)

- t. Email - COVID TEST (March 31, 2020, 4:20pm) (Email 28 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH)
 - o *Sender:* Juan Maldonado (Apex representative)
 - o *Forward:* Yma González (Alister McKinley)

Exhibit A

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- u. Email - TESTS (March 31, 2020, 4:28pm) (Email 29 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH)
 - o *Sender:* Juan Maldonado (Apex representative)
 - o *Forward:* Yma González (Alister McKinley)

- v. Email - COVID-19 Rapid Test Kit - FDA (April 1, 2020, 12:23pm) (Email 30 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH)
 - o *Sender:* Juan Maldonado (Apex representative)
 - o *Forward:* Yma González (Alister McKinley), Tyler Brossart (501 Nutrition), Andrew Beuschel (501 Nutrition) and Jeff McKee (David McKee)

- w. Email - Clarity (April 1, 2020, 5:58pm) (Email 31 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH)
 - o *Sender:* Juan Maldonado (Apex representative)
 - o *Forward:* Yma González (Alister McKinley)

- x. Email - PROMEDICAL RAPID TESTS KITS (April 2, 2020, 9:50am) (Email 32 Apex.jpg)
 - o *Recipient:* Mariel Rivera Rivera (DOH)
 - o *Sender:* Juan Maldonado (Apex representative)
 - o *Forward:* Yma González (Alister McKinley)

4. Lastly, please confirm if there is a document entitled “Email 23 Apex” that we were supposed to receive. Note the DOH identified their emails in connection with the Contract from 1 to 32, however, #23 (which may be identified as “Email 23 Apex”) is missing from the email sent to AAFAF by the Department of Health of Puerto Rico and forwarded to the Oversight Board by Carlos Saavedra from AAFAF on April 20, 2020 at 8:13 PM.